



STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:)
)
 BECKY HART,)
)
 Complainant,)
)
 and) CHARGE NO: 2001SF0269
) EEOC NO: 21BA10309
 ALICE'S RESTAURANT and) ALS NO: S-11664
 GREG CARLOCK,)
)
 Respondents.)

RECOMMENDED ORDER AND DECISION

This matter is ready for a Recommended Order and Decision pursuant to the Illinois Human Rights Act (775 ILCS 5/1-101 et seq.). On June 5, 2003, an Order was entered which acknowledged the parties' prior representation that the case had settled and required the parties to submit either a proposed settlement agreement for the Commission's consideration or a motion to dismiss the case with prejudice. However, neither party has complied with the June 5, 2003 Order or has filed a status report indicating why this matter should remain on the Commission's docket.

Findings of Fact

Based upon the record in this matter I make the following findings of fact:

1. On November 2, 2000, Complainant filed a Charge of Discrimination alleging that she was the victim of sexual harassment arising out of her employment as a cook in Respondent's restaurant.
2. On November 20, 2001, the Department filed the instant Complaint of Discrimination on behalf of Complainant, alleging that Complainant was the victim of sexual harassment arising out of her employment as a cook in Respondent's restaurant.

3. On December 11, 2002, an Order was entered which acknowledged the report from the parties that the case had settled and directed the parties to file either a proposed settlement agreement or a motion to dismiss the case by January 9, 2003.

4. On March 6, 2003, an Order was entered which reflected the fact that neither party had submitted a proposed settlement or a motion for dismissal by January 9, 2002 and directed the parties to file either document by March 31, 2003.

5. On June 5, 2003, an Order was entered which reflected the fact that neither party had complied with the Orders of December 11, 2002 and March 6, 2003 and cautioned the parties that if they had not submitted either a settlement agreement or a motion to dismiss by June 26, 2003, an Order would be entered recommending that the case be dismissed for want of prosecution.

6. The parties have not submitted either a settlement agreement or a motion to dismiss as of the date of this Order.

Conclusions of Law

1. A complaint may be dismissed when a party engages in conduct which unreasonably delays or protracts proceedings. See, 56 Ill. Admin. Code, Ch. XI, 5300.750(e).

2. The parties have unreasonably delayed proceedings by failing to comply with two Commission Orders directing them to file either a proposed settlement agreement to be considered by the Commission or a motion to dismiss this case with prejudice.

3. The appropriate sanction for the parties' failure to advance this case is dismissal of the Complaint and the underlying Charge of Discrimination with prejudice.

Determination

The Complaint and underlying Charge of Discrimination should be dismissed with prejudice for the parties' failure to comply with Commission Orders directing them either

to take the proper steps to effect their settlement or resolve the instant Complaint through a motion to dismiss.

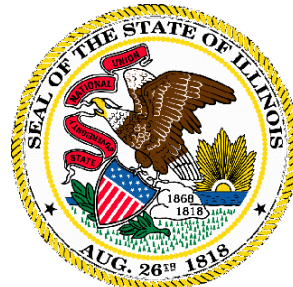
Discussion

Under the Commission's procedural rules, an administrative law judge may recommend to the Commission that a complaint be dismissed where a party engages in conduct which unreasonably delays or protracts proceedings. (See, 56 Ill. Admin. Code, Ch. XI, 5300.750(e).) On review, the Commission has upheld the use of such discretion to dismiss complaints in circumstances that are analogous to the case at bar. (See, for example, **Des Roches and University of Chicago**, ___ Ill. HRC Rep. ___ (1991CN2778, February 3, 1999).) Here, the record shows that the parties have settled this matter but have failed to take the proper steps to dispose of this case, in spite of having been given two opportunities to do so. Their behavior renders it difficult for the Commission to take any action with respect to this case except to dismiss it. See, for example, **Paredes and Lorretto Hospital**, ___ Ill. HRC Rep. ___ (1989CF1769, June 15, 1995).

Recommendation

For all of the above reasons, I recommend that the Complaint and the underlying Charge of Discrimination be dismissed with prejudice.

HUMAN RIGHTS COMMISSION



BY: _____
MICHAEL R. ROBINSON
Administrative Law Judge
Administrative Law Section

ENTERED THE 21ST DAY OF OCTOBER, 2003